

(iii) A contact point at the creditor agency identified by the disbursing official that will handle concerns regarding the offset.

(2) The information described in paragraphs (c)(1)(ii) and (c)(1)(iii) of this section does not need to be provided to the debtor when the offset occurs if such information was included in a prior notice from the disbursing official or the creditor agency.

#### **§ 105–56.032 Fees.**

GSA, while performing centralized salary offset computer matching services, may charge a fee sufficient to cover the full cost for such services. In addition, FMS, or GSA acting as the paying agency on behalf of FMS, may charge a fee sufficient to cover the full cost of implementing the administrative offset program. FMS may deduct the fees from amounts collected by offset or may bill the creditor agency. Fees charged for offset will be based on actual administrative offsets completed.

#### **§ 105–56.033 Disposition of amounts collected.**

(a) The disbursing official conducting the offset will transmit amounts collected for debts, less fees charged under § 105–56.032 of this subpart, to the creditor agency.

(b) If an erroneous offset payment is made to the creditor agency, the disbursing official will notify the creditor agency that an erroneous offset payment has been made.

(1) The disbursing official may deduct the amount of the erroneous offset payment from future amounts payable to the creditor agency; or

(2) Alternatively, upon the disbursing official's request, the creditor agency will promptly return to the disbursing official or the affected payee an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to the creditor agency have been paid). The disbursing official and the creditor agency will adjust the debtor records appropriately.

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## **GENERAL SERVICES ADMINISTRATION**

### **41 CFR Part 105–57**

[GSPMR Amendment 2003–03; GSPMR Case 2003–105–2]

RIN 3090–AH85

### **Administrative Wage Garnishment**

**AGENCY:** Office of Finance, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending its regulations to implement the administrative wage garnishment provisions contained in the Debt Collection Improvement Act of 1996 (DCIA). Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a withholding order. The DCIA authorizes Federal agencies to administratively garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States in accordance with regulations issued by the Secretary of the Treasury.

This part was previously titled Collection of Debts by Tax Refund Offset. Effective January 1, 1999, the Department of the Treasury started to conduct the tax refund offset program as part of the centralized offset program, known as the Treasury Offset Program (TOP), operated by the Financial Management Service (FMS), a bureau of the Department of the Treasury. Since GSA has a cross-servicing agreement with FMS, which includes the TOP, the Collection of Debts by Tax Refund Offset is no longer valid and is rescinded and replaced with the new part, Administrative Wage Garnishment.

**DATES:** *Effective date:* December 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 208–7312 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Michael J. Kosar, General Services Administration, Office of Finance (BCD), Office of the Chief Financial Officer, Room 3121, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–2029; electronic mail at [mike.kosar@gsa.gov](mailto:mike.kosar@gsa.gov). Please cite GSPMR Amendment 2003–03, GSPMR case 2003–105–2.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

This rule implements the wage garnishment provision in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321–358 (Apr. 26, 1996), codified at 31 U.S.C. 3720D. Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a withholding order. The DCIA authorizes Federal agencies to

administratively garnish up to 15 percent of the disposable pay of a debtor to satisfy delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting delinquent non-tax debt may administratively garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury, is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA.

In accordance with the requirements of the DCIA, this rule establishes the following rules and procedures:

1. *Notice.* At least 30 days before GSA initiates garnishment proceedings, the Agency will give the debtor written notice informing him or her of the nature and amount of the debt, the intention of GSA to collect the debt through deductions from pay, and an explanation of the debtor's rights regarding the proposed action.

2. *Rights of the Debtor.* GSA will provide the debtor with an opportunity to inspect and copy records related to the debt, to establish a repayment agreement, and to receive a hearing concerning the existence and/or amount of the debt and/or the terms of a repayment schedule. A hearing will be held prior to the issuance of a withholding order if the debtor's request is received timely. For hearing requests that are not received in the specified time frame, GSA will not delay issuance of the withholding order prior to conducting a hearing. GSA will not garnish the wages of a debtor who has been involuntarily separated from employment until that individual has been reemployed continuously for at least 12 months. The debtor bears the burden of informing GSA of the circumstances surrounding an involuntary separation from employment.

3. *Employer's Responsibilities.* GSA will send to the employer of a delinquent debtor a wage garnishment order directing that the employer pay a portion of the debtor's wages to GSA. This rule requires the debtor's employer to certify certain payment information about the debtor. Employers will not be required to vary their normal pay cycles